

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

DATE: November 15, 2001

SUBJECT: Reports of Significant Developments and Activities
Ending on November 9, 2001

FROM: William E. Muno, Director
Superfund Division

TO: Thomas V. Skinner
Regional Administrator

David A. Ullrich
Deputy Regional Administrator

The activities listed below are organized by site-specific activities and training/conferences:

SITE-SPECIFIC ACTIVITIES

Response (Anthrax), Postal Facility, Indianapolis, Indiana

On October 31, 2001, United States Environmental Protection Agency (U.S. EPA) On-Scene Coordinators (OSCs) Renninger and Stimple, Superfund Technical Assistance & Response Team (START), Marion County Health Department, Indiana State Health Department, and Indiana Department of Environmental Management (IDEM) responded to the U.S. Postal Service's (USPS's) Critical Parts Center in Indianapolis, Indiana, due to a Center for Disease Control (CDC) confirmed anthrax sample at the facility. The Critical Parts Center is a USPS contracted facility, with the contractor being the DDD Company, that repairs computer parts from postal facilities nationwide. The Critical Parts Center received approximately 110 parts from postal facilities in the New Jersey and Washington, D.C., areas since mid-October. Subsequent sampling by USPS contractors determined the Critical Parts Center contained an anthrax contaminated computer part from Trenton, New Jersey. On November 1, 2001, USPS cleanup contractors initiated decontamination of the 94,000-square-foot facility. U.S. EPA Region 5 is providing technical oversight of the decontamination, and at the request of the local and State health departments, developing and implementing a post decontamination sampling plan for the Critical Parts Center.

Contacts: Steve Renninger (513-569-7539)
Brad Stimple (312-886-0406)

Two Public Meetings (Proposed Plan), Fox River NRDA/PCB Releases Proposed Superfund Site, Green Bay, Wisconsin.

U.S. EPA and the Wisconsin Department of Natural Resources (WDNR) sponsored two meetings for the public to submit written and verbal comments on the Proposed Plan for cleanup of the Fox river and Green Bay at the Fox River NRDA/PCB Releases Proposed Superfund Site, Green Bay, Wisconsin. The Proposed Plan recommends dredging 7.3 million cubic yards of polychlorinated biphenyl (PCB) contaminated sediments in three river reaches, and monitored natural recovery for one river reach and Green Bay. Estimated costs are \$309 million. The public meetings were held in Appleton and Green Bay, Wisconsin, on October 29 and 30, 2001, respectively, with 100 to 200 attendees at each meeting.

Most comments fell into the following categories:

- 1) Cost estimates are too low;
- 2) Local economy may be impacted if costs are borne by companies;
- 3) Cleanup level should be lower; and,
- 4) Green Bay should also be cleaned up.

The comment period ends January 21, 2002. U.S. EPA and WDNR expect to complete Record of Decision by Summer 2002.

Contact: Jim Hahnenberg (312-353-4213)

Appeals Court Decision, Lemon Lane Landfill, Neal's Landfill, and Bennett Stone Quarry Superfund Sites, Bloomington, Indiana

On November 6, 2001, the 7th Circuit Court of Appeals affirmed, in part, and reversed and remanded, in part, the June 16, 2000, order of the U.S. District Court, dismissing the Complaint filed in Frey, Enright, and Protect Our Woods v. United States Environmental Protection Agency. The Complaint sought judicial review of the selected operable unit remedies for the Lemon Lane Landfill, Neal's Landfill, and Bennett Stone Quarry (also called Bennett's Dump) Superfund sites, all located in Bloomington, Indiana. The District Court's denial of the temporary restraining order (TRO) was upheld, as was its dismissal of all Federal and State claims (except nuisance under State law) for Lemon Lane Landfill. Neal's Landfill and Bennet's Dump decisions were reversed and remanded to the District Court to make factual findings regarding whether those remedial actions were "taken" or "secured." The 7th Circuit defined this requirement to mean that

the "remedial action must be complete." The 7th Circuit explained that "two questions are pertinent: first we must construe the legal meaning of 'complete' in the statute, and second, we must decide whether any set of facts consistent with the complaint would allow plaintiff's to recover." To the 7th Circuit, "complete" means that "remediation measures are finished, but that occasional visits of environmental authorities in the future could occur to ensure their effectiveness...." On remand, the District Court is to determine whether additional "remedial actions" are to be taken. If not, then plaintiffs may seek review of the selected remedial actions.

Contacts: Jeffrey Cahn (312-886-6670)
Thomas Alcamo (312-886-7278)

**Hunt for Potentially Responsible Parties and Property Access
Obtained, Gateway Lead Sites, East St. Louis, Illinois**

From November 10-11, 2001, Civil Investigator Joe Kawecky and Enforcement Specialist William Ryczek visited East St Louis, Illinois, in support of the Gateway Lead Project. In their search for potentially responsible parties, they conducted historical research and title searches of industrial and railroad properties. The County recorders office was visited and the historical section of the library was reviewed. Access for sampling at the last of the original 22 lead sites was obtained from a reluctant property owner. And, a contact was made for access to the first of the five new Rail Road roundhouse properties.

Contacts: Joe Kawecky (312-886-7236)
William Ryczek (312-886-7184)

**Community Involvement Meeting (Environmental Site Assessment
Work), Former Tappan Facility, Elyria, Ohio,**

On November 1, 2001, the City of Elyria hosted their second Community Involvement Meeting concerning the environmental site assessment work ongoing at the Former Tappan Facility in Elyria, Ohio. This work is being funded by U.S. EPA through a Brownfields Assessment Demonstration Pilot. The City of Elyria, their environmental consultant, and the Ohio Environmental Protection Agency (Ohio EPA) gave presentations. The meeting provided information to the community on the completed Phase I and initial Phase II testing. Also, the City of Elyria informed the community of planned future activities for the next quarter. The City of Elyria plans to begin an asbestos abatement, and a

polychlorinated biphenyl (PCB) remediation in the next quarter. The community was also informed of the next Community Involvement meeting, which is scheduled for next April. The schedule for the Community Involvement Meetings is outlined in the Community Involvement Plan. The meeting was attended by eight citizens, mostly residents of the neighborhood adjacent to the Tappan Facility. No representatives of the Lorain County Neighbors Protecting Our Environment attended the meeting. The citizens expressed their appreciation for the informative meeting to the City of Elyria.

Contact: Brooke Furio (312-353-2513)

TRAINING/CONFERENCES

Sixth National Financial Analyst Conference, Seattle, Washington

During the last week of October 2001, and spearheaded by U.S. EPA's Office of Enforcement and Compliance Assurance, a national conference aimed at enhancing cost recovery initiatives was conducted in Seattle, Washington. Margaret Herring, Thomas Marks, Frank Boenzi, Joe Malek, Joe Kawecki, and Bill Ryczek, employees of our Superfund Program, reported that this conference equipped them with tools and skills helpful in determining someone's ability to pay response costs or assess a business' ability of paying for a cleanup. Frank Boenzi's presentation helped attendees better understand financial statements. The intricate subject of detecting and overcoming fraudulent conveyances undertaken by some responsible parties with an aim of escaping or minimizing Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) liability was the subject matter of Joe Malek's instruction

Contacts: Joe Malek (312-353-2007)
 Joe Kawecki (312-886-7236)
 William Ryczek (312-886-7184)

cc: Marianne Horinko (OSWER)
 Barry Breen (OECA)
 Steve Luftig (OSWER)
 Larry Reed (OERR)
 Larry Zaragoza (OSWER)
 Craig Beasley (OSWER)
 Michael Shapiro (OSWER)
 Sylvia Lowrance (OECA)
 Region 5 State Superfund Coordinators

Division/Office Directors
ORA State Coordinators
Regional Team Managers